IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.3161 OF 2005

Shri Abraham Jacob Avaskar : Petitioner

V/s.

Government of Maharashtra & Ors. : Respondents

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Mr.P.S.Dani for the petitioner.

Mr.D.A.Patil, Asstt. Govt. Pleader for the respondent nos.1 to 3.

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CORAM : S.A. BOBDE, J.

August 8, 2005.

P.C.:

1. This petition is filed against the order dated 8.4.2005 passed by the Civil Judge, Senior Division, Alibag, impleading the respondent nos.4 to 35 as parties to the suit.

2. The petitioner has filed the suit claiming regularisation of the area over which he is said to be an encroacher. In any case, it is clear that the petitioner has no title over the suit land. It appears that he has, therefore, filed a suit against the State and the Tahsildar claiming allotment of the said land in his

favour.

3. It appears that the suit land is being used by the respondents for answering nature's call. They, therefore, applied for being impleaded as parties which has been allowed.

4. Mr.Dani, the learned counsel for the petitioner, contended that this suit is only against the State and the respondents ought not to be allowed to be impleaded. The learned counsel, however, fairly accepted that if the respondents wish to establish any form of right as customary or otherwise, they can do so only by way of a proceeding at law. This, in my view, is a sufficient ground for allowing the said respondents to be impleaded as parties, which the trial Court has done by the impugned order.

5. In this view of the matter, there is no merit in the petition which is hereby dismissed. The petitioners shall be at liberty to make an application under Order 1 Rule 8, as may be advised.

S.A. BOBDE, J.